

CHAPTER 217—S.F.No. 248

An act relating to health; establishing criteria that must be met before a new radiation therapy facility can be constructed; requiring a study of radiation therapy facilities capacity; appropriating money; amending Minnesota Statutes 2010, section 144.5509.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 144.5509, is amended to read:

144.5509 RADIATION THERAPY FACILITY CONSTRUCTION.

(a) A radiation therapy facility may be constructed only by an entity owned, operated, or controlled by a hospital licensed according to sections 144.50 to 144.56 either alone or in cooperation with another entity.

(b) Notwithstanding paragraph (a), there shall be a moratorium on the construction of any radiation therapy facility located in the following counties: Hennepin, Ramsey, Dakota, Washington, Anoka, Carver, Scott, St. Louis, Sherburne, Benton, Stearns, Chisago, Isanti, and Wright. This paragraph does not apply to the relocation or reconstruction of an existing facility owned by a hospital if the relocation or reconstruction is within one mile of the existing facility. This paragraph does not apply to a radiation therapy facility that is being built attached to a community hospital in Wright County and meets the following conditions prior to August 1, 2007: the capital expenditure report required under Minnesota Statutes, section 62J.17, has been filed with the commissioner of health; a timely construction schedule is developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits applied for. Beginning January 1, 2013, this paragraph does not apply to any construction necessary to relocate a radiation therapy machine from a community hospital-owned radiation therapy facility located in the city of Maplewood to a community hospital campus in the city of Woodbury within the same health system. This paragraph expires August 1, 2014.

(c) Notwithstanding paragraph (a), after August 1, 2014, the construction of a radiation therapy facility located in any of the following counties: Hennepin, Ramsey, Dakota, Washington, Anoka, Carver, Scott, St. Louis, Sherburne, Benton, Stearns, Chisago, Isanti, and Wright, may occur only if the following requirements are met:

(1) the entity constructing the radiation therapy facility is controlled by or is under common control with a hospital licensed under sections 144.50 to 144.56; and

(2) the new radiation therapy facility is located at least seven miles from an existing radiation therapy facility.

(d) Any referring physician located within a county identified in paragraph (c) must provide each patient who is in need of radiation therapy services with a list of all radiation therapy facilities located within the counties identified in paragraph (c). Physicians

with a financial interest in any radiation therapy facility must disclose to the patient the existence of the interest.

(e) For purposes of this section, "controlled by" or "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the policies, operations, or activities of an entity, through the ownership of, or right to vote or to direct the disposition of shares, membership interests, or ownership interests of the entity.

(f) For purposes of this section, "financial interest in any radiation therapy facility" means a direct or indirect ownership or investment interest in a radiation therapy facility or a compensation arrangement with a radiation therapy facility.

(g) This section does not apply to the relocation or reconstruction of an existing radiation therapy facility if:

(1) the relocation or reconstruction of the facility remains owned by the same entity;

(2) the relocation or reconstruction is located within one mile of the existing facility;
and

(3) the period in which the existing facility is closed and the relocated or reconstructed facility begins providing services does not exceed 12 months.

Sec. 2. STUDY OF RADIATION THERAPY FACILITIES CAPACITY.

(a) To the extent of available appropriations, the commissioner of health shall conduct a study of the following: (1) current treatment capacity of the existing radiation therapy facilities within the state; (2) the present need for radiation therapy services based on population demographics and new cancer cases; and (3) the projected need in the next ten years for radiation therapy services and whether the current facilities can sustain this projected need.

(b) The commissioner may contract with a qualified entity to conduct the study. The study shall be completed by March 15, 2013, and the results shall be submitted to the chairs and ranking minority members of the health and human services committees of the legislature.

Sec. 3. APPROPRIATION.

In fiscal year 2013, \$137,000 is appropriated from the health care access fund for a study of radiation therapy facilities capacity. This is a onetime appropriation. If an appropriation for this purpose is enacted more than once in the 2012 legislative session, it shall be implemented only once.

Presented to the governor April 20, 2012

Signed by the governor April 23, 2012, 11:15 a.m.